IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 3728 of 2005

Between:

1 Venkateswara Reddy, S/o. Basivi Reddy,
of Sri Sai Bottles and General Merchants, D.No. 41-18-25,
Tirumalarao Street, Vijayawada - 13.
2 A. Veera Reddy, S/o. Basivi Reddy,
Proprietor of Sri Venkateswara Bottle Suppliers,
D.No. 41-17-18 & 41-17-27A, Dintyalavari Street, Vijayawada.
3 A.V. Subba Reddy, S/o. Basivi Reddy,
of Sri Baba Waste Paper and General Merchant, D.No. 41-13-24,
Dharmarajuvari Street, Vijayawada.

4 M.Yellamanda, S/o. Showdaiah,
of Balaji Bottle Stores, D.No. 41-2-63, Post Office, Vijayawada -13.
5 A. Lingamma, W/o. Venkateswara Reddy,
Sri Lakshmi Srinivasa Bottle Stores, D.No. 41-18-27, Tirumalarao,
Vijayawada -13.
6 A. Anji Reddy, S/o. Gurunadha Reddy,
Proprietor of Sri Anjaneya Traders, D.No. 41-27-1/A, Saw Mill Road,
Vijayawada - 13.
7 J. Appalaiah, S/o. J. Rama Appadu,
D.No. 41-1-1/179, Vijayawada - 13.
8 V. Rami Reddy, S/o. Koti Reddy,
Proprietor of Sri Sai Durga Bottles & General Merchants,
D.No. 41-1-1/28, Saw Mill Road, Vijayawada - 13.
9 P. Brahma Reddy, S/o. Chinnappa Reddy, '
Proprietor of Sri Vijayalakshmi Bottles, D.No. 41-27-1/A, Byreddywari

Street,Vijayawada.
10 V. Sivamma, W/o. Chalama Reddy,
Proprietor of Sri Sai Vijai Bottles, D.No. 41-27-22, Saw Mill Road,
Vijayawada - 13.
11 J. Govind Reddy, S/o. Krishna Reddy,
D.No. 41-27-71, Saw Mill Road,
Vijayawada - 13.

... PETITIONERS

AND

1 The Commissioner, Vijayawada Municipal Corporation, Vijayawada.
2 Medical Officer of Health, Vijayawada Municipal Corporation, Vijayawada.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to to issue a Writ of Mandamus or any other appropriate Writ or Order or direction declaring the action of the Respondents in preventing the petitioners from running the business of cleaning the used liquor bottles and selling them to Breverage Companies is arbitrary, illegal and unconstitutional

Counsel for the Petitioner: MR.K.SURESHREDDY

Counsel for the Respondents: MR.T.S.VENKATARAMANA

The Court at the stage of admission made the following:

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ORDER:

This writ petition is filed seeking a declaration that the alleged action of the

respondents in preventing the petitioners from running the business of cleaning the used liquor bottles and selling them to beverage companies as arbitrary and illegal.

The petitioners, 11 in number, state that they have been carrying on business of cleaning old bottles and selling the same to the beverage companies for the past several years. According to the petitioners, provisions of Section 521 of the Hyderabad Municiapl Corporation Act do not attract the trade being carried on by them and therefore it is not necessary to obtain a trade license as required under Section 521 of the Act. However, the first respondent-Commissioner by notice dated 27-11-2004, informed the petitioners that they have been running the business without obtaining a license as required under Section 521 of the Act and as such it is treated as an unauthorized trade. It is stated that the business carried on by the petitioners is also causing nuisance and found to be dangerous to the health of the public in the vicinity. It is also stated that in spite of the notice served earlier on 05-02-2004 under Section 521 (i) e (ii) of the Act, petitioners have failed to stop the trade and therefore they were called upon to stop the business and clear the premises within seven days from the date of the said notice. Aggrieved by the same this writ petition is filed seeking the above relief.

Heard the learned counsel for the petitioners and the learned Standing Counsel appearing for the respondents.

Though the learned Counsel for the petitioners raised various contentions, since admittedly the impugned order was passed without considering the version of the petitioners, without expressing any opinion on merits, I deem it appropriate to afford an opportunity to the petitioners to offer their explanation to the action proposed under the impugned order.

Accordingly, the Writ Petition is disposed of granting liberty to the petitioners to submit the necessary explanation within two weeks raising all the objections as are available under law treating the impugned demand notice dated 27-11-2004 as a show cause notice. If any such explanation is received from the petitioners within three weeks from today, the same shall be considered by the respondents and appropriate orders be passed, in accordance with law, within a period of three

weeks thereafter. Till such time, no coercive steps shall be taken against the petitioners.

The Writ Petition is accordingly disposed of. No order as to costs.

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G. ROHINI, J

Dated: 28-02-2005

LSK

ASSISTANT REGISTRAR

To

1 The Commissioner, Vijayawada Municipal Corporation, Vijayawada.
2 Medical Officer of Health, Vijayawada Municipal Corporation, Vijayawada.

3 Two C.D. copies.